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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,990	12/01/2003	Yoshio Tomoda	42760-0200	4923

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EXAMINER

TRAN LIEN, THUY

ART UNIT PAPER NUMBER

1761

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/725,990	Applicant(s) TOMODA ET AL.	
	Examiner Lien T. Tran	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-54 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 34-54 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 34-35,37,40-41,43,46,48 and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Teh et al.

Teh et al disclose a process of preparing flavored noodles. The process comprises the steps of preheating flavor ingredients, adding the flavor ingredient to a dough, sheeting the dough, slitting the dough sheet to form strips, steaming the strips and frying the strips to form noodles. The flavor ingredients may be one or more of peptides, amino acids, yeast extract, cysteine, thiamine etc... The noodles are fried in a fryer at temperature of 125-170 degree C for 20-100 seconds and packaged along with seasoning sachet. The amount of flavor ingredient added to the dough is in the range of .1-5%. (see col. 1 lines 45-65, col. 3 lines 49-56)

Teh et al disclose all the limitations of the cited claims. The preamble limitation does not limit the claims because the steps following the preamble is self-contained and does not depend on the preamble for completeness. Furthermore, Teh et al disclose the step of adding an amino acid compound to the noodles prior to frying; thus, the improvement of " minimizing formation of acrylamide is inherent in the Teh et al process.

Claims 36,38-39,42,44,45, 47,50-53 rejected under 35 U.S.C. 103(a) as being unpatentable over Teh et al. in view of Jaeggi

Teh et al do not disclose using cysteine hydrochloride, the amino acid is glycine, taurine, packaging the noodles in a cup, the food recited in claim 47, the amino acid as recited in claim 52 and the amount of acrylamide in claim 54.

Jaeggi discloses processes for preparing flavoring compositions. They teach to incorporate amino acids in the flavoring compositions. The amino acids that can be used are those listed on column 2 lines 7-20.

It would have been obvious to one skilled in the art to use cysteine hydrochloride because it is common in the art to use the amino acid or salt of such amino acid. It would also have been obvious to package the noodles in the cup to make a ready to eat product. Such packaging is notoriously well known as there are many commercially available noodle cups. Teh et al disclose the flavor ingredients may be one or more of material including amino acids. Thus, it would have been obvious to one skill in the art to use other kind of amino acid such as glycine, taurine, lysine or alanine because such amino acids are known flavor enhancing agents as shown by Jaeggi. It would also have been obvious to use the noodles for preparation of other food product; for example, it is common to boil the noodles and use it as an ingredient in preparation of various noodle dishes. The amount of acrylamide claimed is inherent in the Teh et al product because it contains the same additive and is subjected to the same cooking method.

Claims 34-35,37-41,43-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yajima et al.

Yajima et al disclose a process for producing foods having good keeping qualities. The process comprises the steps of adding to food anhydrofructose and then heating the food. Heating of foods means heating for cooking by steaming, boiling, frying etc... Along with the anhydrofructose, other additives including amino acids such

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as glycine, cystin, alanine, arginine and lysine is added. The foods include fried foods, noodles, bread, etc... The foods are not limited and include foods that are subjected to heating. The amount of amino acid added is .01-100 parts by weight. The heating temperature can vary and can be in the range of 50-250 degree C. (see col. 4 lines 44-50, col. 6, and col 7., col. 8 lines 48-51)

Yajima et al does not specifically recite preparing a fried noodles, the types of food as in claims 46-47, sealing noodles in a cup and the acrylamide content.

The preamble limitation of minimizing formation of acrylamide does not limit the claims because the steps following the preamble is self-contained and does not depend on the preamble for completeness. Furthermore, Yajima et al disclose the step of adding an amino acid compound to foods before frying; thus, the improvement of "minimizing formation of acrylamide is inherent in the Yajima et al food products. Yajima et al disclose the additives are added to many different types of food product; thus, it would have been obvious to one skilled in the art to add to noodles to make fried noodle or any other food products when it is desired to obtain the benefit disclosed by Yajima in the food product. Yajima et al disclose the foods are subjected to heating including frying; thus, it would have been obvious to make fried noodle. It would also have been obvious to package the noodles in the cup to make a ready to eat product. Such packaging is notoriously well known as there are many commercially available noodle cups. The amount of acrylamide claimed is inherent in the Yajima et al product because it contains the same additive and is subjected to the same cooking method. It

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would have been obvious to use the amino acid or salt thereof because such usage is known in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday, Wednesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cano Milton can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 26, 2006


LIEN TRAN
PRIMARY EXAMINER
